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EXAMINER
KYLE, CHARLES R

ART UNIT	PAPER NUMBER
3624	

DATE MAILED: 03/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/399,753	MILLER ET AL.
	Examiner	Art Unit
	Charles R Kyle	3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>20 December 2002</u> .

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>14-42</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>14-42</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

The rejection of Claim 17 under 35, USC 112 in the prior office action is withdrawn

based on Applicant's amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

Claims 14-15, 18-19 and 25-26 are rejected under 35 U.S.C. 103(a) as being

unpatentable over *Ludwig et al*

With respect to Claim 14, *Ludwig* discloses the invention substantially as claimed,

including in a method of creating a user-defined network environment without requiring

administrator privileges (Fig. 1; Col. 5, line 65 to Col. 6, line 64), the steps of:

1) creating a group by specifying a plurality of group members entitled to use the user-

defined network environment (Figs. 2A and 8B; Col. 24, lines 16 to Col. 26, line 26);

2) selecting a plurality of web-based (Fig. 2B, ""Posle Browser" element) tools from a

list of available tools, wherein the selected tools are to be made available to the plurality of group

members specified in step 1 (Figs. 20, 30; Summary of the Invention; Col. 18, lines 39-45);

3) through the use of computer software (Summary of the Invention) automatically

creating the user-defined networked environment by creating a web page (Fig. 2B, ""Posle

Browser" element) accessible to the plurality of group members selected in step 1, wherein the

web page provides access to the plurality of tools selected in step 2 (Col. 19, line 49 to Col. 20,

line 4; Fig.. 8A).

Ludwig does not specifically disclose a group identifier and description. It would have

been obvious to one of ordinary skill in the art at the time the invention was made to have

provided such information to users because this would have allowed a user to locate and confirm

identity of groups in which he or she might wish to participate.

With respect to Claim 15, *Ludwig* discloses inviting prospective group members at Col.

22, lines 26-38.

Concerning Claim 18, *Ludwig* discloses electronic collaboration among group members

Abstract.

With respect to Claim 19, *Ludwig* discloses destroying the environment at Col. 23, lines

31-50.

With respect to Claim 25, *Ludwig* discloses brainstorming in the environment at Col. 1,

lines 39-45.

With respect to Claim 26, it is the system form of Claim 14 and recites the same

functionality. *Ludwig* further discloses a plurality of computers networked (Fig. 1), a plurality of

web browsers (Fig. 2B), and a database that stores information concerning the user-defined

network environment (Col. 8, lines 27-40). *Ludwig* does not specifically disclose that the

computers are networked through the Internet, although a WAN is shown in Fig. 1. The WAN is

clearly indicated to be the Internet, however, because of the provision of web-based browsers as

noted above. Such web-based browsers inherently function on the Internet.

Claims 16-17, 27-31 and 33-38 are rejected under 35 U.S.C. 103(a) as being

unpatentable over *Ludwig et al* in view of *Walker et al*.

With respect to Claim 16, *Walker* discloses advertisement for prospective participants at

Col. 2, lines 1-19.

With respect to Claim 17, it would have been obvious to screen for participants because

this would have limited the environment to suitable persons. An example of such screening is

performing a credit check of potential purchasers.

With respect to Claim 27, *Ludwig* discloses the invention substantially as claimed. See

the discussion of Claim 14 above. *Ludwig* does not specifically disclose steps 4- 8 as set forth in

Claim 27. *Walker* discloses these steps as posting offers to form a contract (Fig. 5A), posting

responses (Fig. 5C; Col. 4, line 62 to Col. 5, line 7), researching responses (Col. 9., line 38 to

Vol. 10, line 26), negotiating to accept a response (Fig. 5E; Abstract) and electronically signing

the contract (Col. 12, lines 34-46). It would have been obvious to one of ordinary skill in the art

at the time the invention was made to have selected the negotiation method steps disclosed by

Walker in the method of *Ludwig* because this would have facilitated the haggling type

negotiation disclosed by *Walker*.

Concerning Claim 28, *Walker* suggests a user-selected sort order at Figs. 5a-5e.

Providing such a capability would allow users to more effectively search for items they wanted.

This is as opposed to endless scrolling through unordered items.

Concerning Claims 29-31, see the discussion of Claim 27 above and anonymous

negotiation was well known at the time of the invention and allowed negotiators to transact

business without allowing the opposing negotiator the advantage of knowing his/her personal

characteristics and weaknesses. Simultaneous revelation of identity would allow both parties to

obtain this benefit.

With respect to Claims 33 and 34, see the discussion of Claim 16 and the use of

hyperlinks was old and well known at the time of the invention.

With respect to Claim 35, *Ludwig* discloses these steps which constitute negotiation at

Col. 1, lines 25-50.

With respect to Claim 36, see the discussions of Claims 27 and 17 above.

With respect to Claim 37, *Walker* discloses use of the Internet at Col. 7, line 47 to Col.

8, line 57.

Concerning Claim 38, *Ludwig* discloses collaboration, communication and transaction

tools at the Background of the Invention.

Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Ludwig et*

al in view of *Ferguson*.

With respect to Claim 20, *Ludwig* discloses the invention substantially as claimed. See

the discussion of Claim 14 above. *Ludwig* does not specifically disclose using its invention for

an auction. *Ferguson* discloses use of networked collaboration for auctions at Col. 8, lines 55-

63. It would have been obvious to one of ordinary skill in the art at the time the invention was

made to have implemented the auction of *Ferguson* in the networked environment of *Ludwig*

because this would have allowed for the interpersonal communications described by *Ludwig*

which would have made the auction of *Ferguson* more exciting. Additionally, *Ludwig* discloses

using their invention for business negotiations, of which auctions are a type. See Background of

the Invention.

With respect to Claim 21, a survey would have been obvious for the same interpersonal

communication benefit cited directly above. Such interpersonal communication would allow a

person doing a survey to obtain much more "feedback" than as with simple forms filling.

With respect to Claim 22, *Ferguson* discloses bid and proposal format at Col. 8, lines

55-61.

With respect to Claim 23, an auction is read as ordering goods and services. See the

discussion of Claim 20 above.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Ludwig et al* in

view of *Microsoft Press Computer Dictionary, Third Edition*.

With respect to Claim 24, *Ludwig* discloses the invention substantially as claimed. See

the discussion of Claim 14 above. *Ludwig* does not specifically disclose use of EDI to execute

business transactions. *Dictionary* discloses the use of EDI for business transactions at page 169.

It would have been obvious to one of ordinary skill in the art at the time the invention was made

to have used EDI for executing commercial transactions because it provides standardized

business documents, which would have facilitated the completion of transactions.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Ludwig et al* and *Walker* and further in view of *Axaopoulus et al.*

Ludwig and *Walker* disclose the invention substantially as claimed. See the discussion of Claim 27 above. They do not disclose the use of a keyword search agent. *Axaopoulus* discloses this feature at Col. 15, lines 36-40 at least. The combination would have been obvious because this would have simplified search efforts by users of the electronic commerce environment of *Axaopoulus*.

Claims 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Ludwig et* in view of *Tannenbaum*.

With respect to Claim 39, see the discussion of Claim 14 above and *Ludwig* discloses a single network at Fig. 1. This single network is composed of MLANs and a WAN as noted by Applicant. *Ludwig* does not clearly define its network as a single network, although it is clearly shows an interconnected collection of autonomous computers. *Tannenbaum* makes clear this definition at Page 2, third full paragraph and shows that *Ludwig* discloses a single network. Thus, *Ludwig* discloses the single network claimed by Applicant.

Applicant attempts to set up an arbitrary boundary between the MLANs and WANS to argue that they do not make up a single network. As made clear by *Tannenbaum*, the connected autonomous computers linked by *Ludwig* are a single network.

As to Claim 41, see the discussion of Claims 14 and 39 above.

Claims 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Ludwig et al* and *Tannenbaum* and further in view of the *Dictionaary of Computer and Internet Terms*, hereinafter, *Dictionary*.

With respect to Claim 40, see the discussion of Claim 39 above. *Ludwig et al* and *Tannenbaum* do not make clear the definition of the Internet. *Dictionary* makes clear that the Internet is a single network of linked computer networks akin to that of *Ludwig* at pages 239-240. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the single network of the Internet disclosed by *Dictionary* for the invention of *Ludwig et al* and *Tannenbaum* because this would have given the global reach disclosed by *Dictionary* in the first line of the Internet definition.

Response to Arguments

Applicant's arguments filed December 20, 2002 have been fully considered but they are not persuasive.

At the second paragraph of page 3 of the response, Applicant argues that Ludwig discloses no web-based tools. Applicant fails to show why the Examiner's citation of web-based tools in Ludwig in this and the prior office action is wrong. Applicant then argues that his invention differs from Ludwig because it does not require support at each workstation for tools. Review of Applicant's claim language doe not show this to be a claim limitation, so it cannot confer patentability. At the last paragraph of page 3, Applicant argues non-claimed features in the form of environment generation not limited to programs in a specific server in a local area network.

Applicant argues the new limitation that the network of his invention comprises only a

single network. Applicant states that Ludwig fails to disclose a single computer network; the

citation of Tannenbaum for a definition of a "computer network" shows that an interconnected

collection of autonomous computers is a single network. Thus, Ludwig, disclosing such a

collection, discloses a single network. The suggestion that Ludwig is not a single network is

incorrect because Ludwig discloses an interconnected collection of autonomous computers

(WAN and MLAN computers). See Figure 1.

It appears that Applicant's invention is a system in which client users select tools

provided by a central "tool provider" network node. This central node eliminates the need for

the individual tools to be installed on each client computer. This is not set forth in the Claims.

The use of the phrases "predefined" and "user-defined" provide no element of

patentability. In Ludwig, each user defines his/her environment by selecting from among

available tools; Applicant's Claim language does not make clear that these tools are provided

only at a central "tool provider" network node or who does the "predefiniton".

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Charles R Kyle whose telephone number is (703) 305-4458. The

examiner can normally be reached on M-F 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone numbers for the

organization where this application or proceeding is assigned are (703) 872-9326 for offical

communication and (703) 872-9327 for after final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 308-1113.

crk
February 25, 2003

VINCENT MILLIN
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